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UNITED STATES DISTRICT COURT

DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MATTHEW AMBROSE BAKER,

Defendant.

Reply in Support of Motion to Compel

Case No. 2:20-cr-301

Judge David Barlow
Magistrate Judge Jared C. Bennett

Matthew Ambrose Baker, through counsel, submits this reply in support of his motion to compel. *See* Doc. 89. As discussed herein, certain materials should still be produced for Mr. Baker's defense.

Some points in the government's objection are well-taken. In particular, the government is correct to note that Probation Office is an arm of the judicial branch, not the executive branch agency and certainly not part of the prosecution. But that fact resolves some issues in Mr. Baker's favor.

Mr. Baker's motion to compel is connected to his motion to suppress the fruits of the search the Probation Office performed on March 30, 2022. *See* Doc. 80. The best evidence of whether the search was improper—whether the Probation Office was serving as the

government's "stalking horse"—is the messages exchanged between the government and the Probation Office around the time of the search. While some of that communication was ephemeral, emails to and from the Probation Office should be readily available on the government's servers. Moreover, because copies of those emails are in the government's control, the court does not need to direct the Probation Office to produce anything. And, returning to the earlier point, because those communications are to an arm of the judiciary branch, not another part of the executive, the government has no claim of privilege or work product protection.

It is present counsel's understanding that only some of these emails have been produced to Mr. Baker. The government's opposition (Doc. 92) mentions some of them. But it not clear whether the remainder were requested or whether there was an objection to providing them. However, because the emails were to an arm of the judiciary, the government has no basis to deny their disclosure.

DATED this 8th day of August, 2022.

/s/ Nathan Phelps

Counsel for Matthew Baker